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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,888	11/12/2003	Daniel G. Dadourian	NCPT-001	2298
23410	7590	10/18/2007		
Vista IP Law Group LLP 2040 MAIN STREET, 9TH FLOOR IRVINE, CA 92614			EXAMINER BACHMAN, LINDSEY MICHELE	
			ART UNIT	PAPER NUMBER
			3734	
			MAIL DATE	DELIVERY MODE
			10/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/712,888

Applicant(s)

DADOURIAN, DANIEL G.

Examiner

Lindsey Bachman

Art Unit

3734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15,23-31,33 and 34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15,23-31,33 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 5-9-07.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

This Office Action is in response to Applicant's Request for Continued Examination filed on 30 July 2007.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 7, 9, 10, 11, 13, 15, 23-31 and 33-34 are rejected under 35

U.S.C. 102(e) as being anticipated by Levine et al. (US Patent 7,169,172).

Claim 1: Levine'172 discloses a device that contains a sheath (118) having a lumen (see Figure 4-all) adapted to be affixed to an interventional device (108). The device also contains an ostial locator wire (104) slidably disposed within the sheath (column 3, lines 57-59 and column 6, lines 44-47). The distal region assumes an expanded configuration when extended from the distal region of the sheath (see Figure 4f and 4g) such that the distal region partially encircles and is spaced apart from the interventional device when the sheath is affixed thereto (see Figures 4-all) and 5) and a linear configuration when retracted back into the lumen (Figure 4g).

Claim 7: The expanded configuration of the ostial locator wire could be larger than the ostium of the branch vessel.

Claim 9: The expanded configuration has a cone-shape (see Figure 4(all)).

Claim 10: The ostial locator wire has an atraumatic tip (column 5, lines 27-29).

Claim 11: The ostial locator wire has a tip having a lasso (602) to retain the wire on the interventional device (column 7, lines 42-44).

Claim 13: The expanded configuration can flatten out when urged into contact with an ostium (column 5, lines 27-29).

Claim 15: The distal region can contain a radiopaque feature (column 4, lines 64-67).

Claim 23: Levine'172 discloses a device that contains a stent (108), a sheath (118), and an ostial locator wire (104) slidably disposed within the lumen of the sheath (column 3, lines 57-59 and column 6, lines 44-47). The distal region assumes an expanded configuration when extended from the distal region of the sheath (see Figure 4f and 4g) such that the distal region partially encircles and is spaced apart from the interventional device when the sheath is affixed thereto (see Figures 4(all) and 5).

Claim 24: The interventional device can contain a balloon with a stent positioned on it (column 8, lines 20-34).

Claim 25: The distal region assumes an expanded configuration when extended from the distal region of the sheath (see Figure 4f and 4g) and a linear configuration when retracted back into the lumen (Figure 4g).

Claim 26: The distal region assumes an expanded configuration that can flatten out when it reaches an ostium (column 5, lines 27-29).

Claim 27: The interventional device contains a delivery catheter (column 8, lines 20-34).

Claim 28: The delivery catheter is affixed to the sheath such that the distal end is proximal to the stent (column 8, lines 20-34).

Claim 29: Levine'172 discloses a device that contains a sheath (118), and an ostial locator wire (104) slidably disposed within the lumen of the sheath (column 3, lines 57-59 and column 6, lines 44-47). The distal region assumes an expanded configuration when extended from the distal region of the sheath (see Figure 4f and 4g) such that the distal region partially encircles and is spaced apart from an interventional device when the sheath is affixed thereto (see Figures 4(all) and 5). The expanded configuration can flatten out when urged into contact with an ostium (column 5, lines 27-29).

Claim 30: The distal region could have a three-dimension shape when flattened out (column 5, lines 27-29).

Claim 31: The three-dimensional shape could be a cone (Figure 4-all).

Claim 33-34: The device also contains a stent (108) (Figures 4-all and 5) that is surrounded by the distal region (see Figure 4-all).

Claim 1 is rejected under 35 U.S.C. 102(a) as being anticipated by Abrams, et al. (US Patent Application 2003/0050684).

Claim 1: Abrams'684 discloses a device that contains a sheath (12) having a proximal end (towards 20) and a distal end (towards 26) and a lumen (14) extending between. The sheath is adapted to be affixed to an interventional device. Further, the device contains an ostial locator wire (24) that is slidably disposed within the sheath (paragraph [0044]). The wire has a distal region that assumes an expanded configuration when extended from the distal end of the sheath that partially encircles the interventional device (paragraph [0043]). The wire has a linear configuration when retracted into the lumen (paragraph [0042]). The sheath is advanceable with the distal region to position the interventional device and removable after delivery (paragraph [0009]). Since Applicant is not actually claiming the interventional device as part of the invention, the requirement that the wire be spaced from the interventional device is arbitrary.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2-6, 8, 12, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abrams'684.

Claim 2: Abrams'684 teaches an embodiment of the delivery device that contains fasteners (50) for fixing the sheath to the interventional device (12) (paragraph [0060]). It would have been obvious to one skilled in the art at the time the invention was made to modify the embodiment of Abrams'684 in Figure 1, with the fasteners taught in the embodiment in Figures 12 and 13, in order to provide a way to attach the interventional device to the sheath in addition to the use of the wire.

Claim 3: The fastener can be a thin, flexible sheet that partially wraps around the interventional device (see paragraph [0060]).

Claim 4: The fastener is a clasp (50) (paragraph [0060]).

Claim 5: The fastener is adapted for being snap fit or friction fit with the interventional device (depending on the dimensions of the interventional device).

Claim 6: The clasp is capable of being used with a biocompatible adhesive.

Claim 8: The expanded configuration of the wire taught by Abrams'684 assumes a spiral shape (see Figure 1).

Claim 12: The interventional device is a stent delivery catheter that includes a stent (34) and the spiral shape partially encircles the stent (paragraph [0043] and Figure 1). Further, the ostial wire is spaced away from the catheter.

Claim 14: The distal most turn of the expanded configuration of the wire is substantially the same as the diameter of the interventional device, which keeps the expanded configuration centered on the interventional device (see Figures 1-4).

Response to Arguments

Applicant's arguments filed 30 July 2007 have been fully considered but they are not persuasive.

Applicant argues that the device taught by Abrams does not contain an ostial wire spaced apart from an interventional device. This is persuasive for Claim 23 because the interventional device is positively claimed and is replaced with a new grounds for rejection. However, since the interventional device is not claimed in Claim 1, Applicant's arguments are not persuasive because Abrams contains all the claims structural limitations.

Further, Applicant's argument regarding the ostial wire not flattening out when in contact with the ostium is moot in view of the new grounds of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lindsey Bachman whose telephone number is 571-272-6208. The examiner can normally be reached on Monday to Thursday 7:30 am to 5 pm, and alternating Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on 571-272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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A handwritten signature in black ink, appearing to read 'MJ Hayes', with a stylized flourish at the end.

MICHAEL J. HAYES
SUPERVISORY PATENT EXAMINER